

REMARKS

Claims 1-24 were present for examination in the above identified application. Claims 19-24 stand rejected under the judicially created doctrine of obviousness-type double patenting in view claims of 1-3 of U.S. Patent 6,941,573 ('573). Claims 1-3 and 5-10 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,828,993 to Hendricks et al. Claims 11-18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al., in view of U.S. Patent 5,285,272 to Bradley et al. Claim 4 has not been rejected.

Claims 19-24 stand rejected under obvious type double patenting based on claims 1-3 of U.S. Patent 6,941,573 ('573). Obviousness-type double patenting is evaluated by comparing the rejected claims of the application with the claims of the patent to determine if the application claims are merely an obvious extension of the patented claims. Thus, only the claims of the patent (not the entire patent disclosure) are to be considered.

MPEP §§ 804(B)(1) provides the following guidelines concerning the evaluation of obviousness-type double patenting.

A double patenting rejection of the obviousness-type is "analogous to [a failure to meet] the nonobviousness requirement of 35 U.S.C. 103" except that the patent principally underlying the double patenting rejection is not considered prior art. *In re Braithwaite* 379 F.2d 594, USPQ 29 (CCPA 1967). Therefore, any analysis employed in an obviousness-type double patenting rejection parallels the guidelines for analysis of a 35 U.S.C. 103 obviousness determination. *In re Braat*, 937 F.2d 589, 19 USPQ2d 1289 (Fed. Cir. 1991); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985).

Section 2143 of the MPEP in a discussion of a *prima facie* case of obviousness points out that the prior art reference must teach or suggest all of the claim limitations. Claims 19 and 22 (the independent claims in the group 19-24) include a plurality of panelist identification means in the opening paragraph of the respective claims. Further, both claims are limited to include a means for receiving panelist information corresponding to a panelist identification (claim 19, page 27, line 27; claim 22, page 28, line 17). Additionally, both claims include a market research computer for identifying panelist identifying information (claim 19, page 27 line 7; claim 22 page 28 line 33).

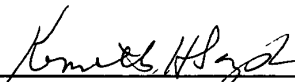
Claims 1-3 of '573 do not in any way teach or suggest panelist identification means, means for receiving panelist identification information or a market research computer responsive in any way to panelist identifying information. Accordingly, the patent claims do not teach or suggest limitations of the claims 19 and 22 and no *prima facie* case of obviousness has been established. In view of the foregoing, it is asserted that claims 19-24 are allowable as they now stand.

Claim 1 has been amended to include the limitations of claim 4 of which has been cancelled. Because claim 4 depended directly from claim 1, the now amended claim 1 is essentially claim 4 written in independent form. As previously mentioned, claim 4 was not rejected in the present Office Action and thus amended claim 1 has not been rejected. Further, claim 1 as amended includes the limitations that a portion of the subscribers are market research panelists and each zone includes a plurality of panelists. No such limitations are taught or suggested by the art in this application, including Hendricks et al. Accordingly, claim 1 is asserted to be allowable and claims 2, 3 and 5-18 are asserted to be allowable due to their dependence on claim 1.

The Commissioner is hereby authorized to charge any additional fees which may be required in this Application to Deposit Account No. 06-1135.

Respectfully requested,

FITCH, EVEN, TABIN & FLANNERY

By 
Kenneth H. Samples
Registration No.: 25,747

Date: 3/22/06
120 South LaSalle Street
Suite 1600
Chicago, Illinois 60603-3406
Telephone: (312) 577-7000
Facsimile: (312) 577-7007